

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6114**

**BILL NUMBER:** HB 1260

**NOTE PREPARED:** Dec 15, 2008

**BILL AMENDED:**

**SUBJECT:** Frivolous Litigation.

**FIRST AUTHOR:** Rep. Foley

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that an offender who has filed at least three civil actions that have been dismissed as frivolous may not file a new action in forma pauperis unless the offender is in immediate danger of serious bodily injury. Under current law, offenders who file three complaints that are ruled to be frivolous are not permitted to file *any* further civil actions unless the offender is in immediate danger of serious bodily injury.

(The introduced version of this bill was prepared by the Sentencing Policy Study Committee.)

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** In CY 2007, the Office of the Attorney General reported that the state of Indiana paid Department of Correction (DOC) plaintiffs an average of \$135 for 51 tort claims. See also *Explanation of Local Expenditures*.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** This bill is expected to have a minimal effect on court expenditures. The bill would allow more offenders to file claims against the Department of Correction, but the added number would not likely be significant.

Unless plaintiffs are permitted to file "in forma pauperis", they must pay a filing fee at either the trial or appeal level and submit any court documents in a specific font style and size that could only be produced on a computer printer.

Under state court rules, parties who are permitted to proceed in pauperis forma are not required to prepay filing fees in actions at either the trial court or appellate level. They may also file legibly handwritten or typewritten briefs and other papers. (Indiana Rules of Appellate Procedure)

**Background**— Offenders who are affected by this bill include persons committed to the DOC or incarcerated in a jail. (IC 34-6-2-89)

The Office of the Attorney General maintains a file on its website that records the number of offenders who have filed frivolous lawsuits. As of November 6<sup>th</sup>, 2008, 59 offenders were reported to have filed one or more lawsuits that a court has determined to be frivolous.

<b>Offenders Identified by DOC As Frivolous Litigators</b>	
Number of Frivolous Lawsuits	Number of Offenders
One	45
Two	7
Three	3
Four	2
Ten	1
21	1
<b>Total Offenders</b>	<b>59</b>
Source: Office of the Attorney General	

The Office of the Attorney General reports that in CY 2007, the state of Indiana paid out \$6,918.80 to 51 offenders. Payments ranged between a low of \$3.90 and a high of \$1,500. The average payment was \$135.

**Explanation of Local Revenues:**

**State Agencies Affected:** DOC; Office of the Attorney General

**Local Agencies Affected:** County sheriffs; Trial courts

**Information Sources:** Office of the Attorney General <<http://atgindsha01.atg.in.gov/legal/litigation/litscreen/>> Appellate Rule 40 Motion to Proceed In Forma Pauperis. <<http://www.in.gov/judiciary/rules/appellate/#r40>> Office of the Attorney General – *Annual Tort Report Detail, CY 2007*.

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